

Paul A. Sprague et al  
USSN 10/726,731  
Filed December 2, 2003

### **Remarks**

Claims 1-2 remain in this application. Claim 3 has been canceled.

### **Amendments**

Claim 1 has been amended to include the wording "the polypropylene of said first profile and said second profile having a melt index of between about 1.7 g to about 3.5 g and a density of between about 0.895 g/cm<sup>3</sup> to about 0.910 g/cm<sup>3</sup>". Support for this amendment can be found in paragraph sixty-one of the specification. In addition, the subject matter of claim 3 has been incorporated into claim 1 and claim 3 has been canceled. Claim 1 has also been amended to include the wording "having a melt flow value of between about 5.0 g to about 9.5 g and a density of between about 0.85 g/cm<sup>3</sup> and 0.93g/cm<sup>3</sup>". Support for this amendment can be found in paragraph sixty-five of the specification. No new matter has been added.

### **Summary of Rejections**

Claims 1-3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Machacek (US 6,595,690) and Buchman et al (US 6,354,738).

### **Rejection of Claims 1-3 Under 35 U.S.C. 103(a)**

In paragraphs 5 and 6 of the Office Action, the Examiner has rejected claims 1-3 under 35 U.S.C. 103(a) as being unpatentable over Machacek and Buchman et al. The Examiner argues that it would have been obvious to one of ordinary skill in the art at the time of the invention to form the reclosable bag, flange, and sealant of polypropylene.

Machacek and Buchman both disclose a tamper evident reclosable plastic bag designed for use as primary packaging. In addition, both references, respectively in Column 2 lines 48-50 and lines 36-38, disclose the bag walls or side panels as being "formed of a suitable plastic film material for the product to be contained within the material". Applicant claims a reclosable package designed for use with a product during a retort process whereby the product is cooked while it is in the package. The side panels and reclosable zipper are claimed as being formed from polypropylene and the sealant is claimed as being a polypropylene-based sealant. Polypropylene is used not only because it creates a stronger bond between the closure profiles and side panels, but because it is a material that can withstand the temperatures during the retort procedure. Machacek and Buchman do not teach or suggest the bag walls or side panels as being formed from polypropylene. Furthermore, neither reference teaches or suggests the use of any material for the forming of either the reclosable zipper or sealant. Therefore, it would not be obvious to one skilled in the art at the time of Applicant's invention to form the bag, flange, and sealant of polypropylene. This conclusion is further supported by the fact that neither reference teaches or suggests using the bag with a product during a retort process.

In addition, claim 1 has been amended to include the wording "the polypropylene of said first profile and said second profile having a melt index of between about 1.7 g to about 3.5 g and a density of between about 0.895 g/cm<sup>3</sup> to about 0.910 g/cm<sup>3</sup>", the subject matter of claim 3, and the wording "having a melt flow value of between about

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5.0 g to about 9.5 g and a density of between about  $0.85 \text{ g/cm}^3$  and  $0.93 \text{ g/cm}^3$  with regard to the sealant. These values for melt index/melt flow value and density for the first and second profile and the sealant are important for these elements to be able to withstand the temperature and time length of the retort procedure. Neither of the cited references teaches nor suggests the use of polypropylene having these values. Neither of the cited references teaches nor suggests using the bag with a product during a retort procedure. Therefore, claim 1 is now in condition for allowance and claim 2, which depends from claim 1, is also in condition for allowance.

In view of the amendment to claim 1 and for the foregoing reasons, reconsideration of the rejections and allowance of claims 1 and 2 are respectfully requested.

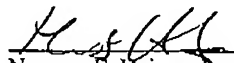
It is respectfully submitted that the present application is in condition for allowance. If the Examiner would like to suggest changes of a formal nature to place this application in better condition for allowance, a telephone call to Applicants' undersigned attorney would be appreciated.

Respectfully submitted,



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